

REMARKS/ARGUMENTS

Applicants would like to thank the Examiner for the courtesy extended during a telephone interview of January 3, 2005. During the interview, a proposal to amend claim 9 was made as indicated in the Examiner's Interview Summary dated January 5, 2005. The Examiner indicated he would be receptive to receiving such amendments, but did not take a position on whether such amendments would render the claims allowable, pending the results of a further search, if necessary.

Claims 2-9 are pending herein, claim 9 being independent. By the amendment above, claim 9 has been amended as proposed during the interview to use the term "single piece" which is found in the specification, instead of "unitary", and to replace "uncovered by" with "free of any other portion". It is believed that the amendments are cosmetic only, and do not affect the scope of the claims. No new matter has been added.

In the Final Rejection, the Examiner objected to the drawings under 37 C.F.R. § 1.83(a) as allegedly not showing a claimed feature of the invention, namely that a portion of the claimed cylindrical peripheral surface is uncovered by any portion of the implant. The Examiner also rejected claims 2-9 under 35 U.S.C. § 112 (1st para.) for allegedly failing to satisfy the written description requirement; under 35 U.S.C. § 112 (2d para.) for allegedly being vague and indefinite; and under 35 U.S.C. § 102(b) as allegedly anticipated by United States Patent No. 5,713,958 (Weiser). By the amendments above, applicants have amended claim 9 to remove any potential discrepancy between the language used in the claims with that used in the written description and any potentially vague or indefinite language.

In the Final Rejection, the Examiner took the position that the claim term "cylindrical peripheral surface being uncovered by any portion of the implant except in said

connection zone" is not shown in the drawings, and is not disclosed in the specification. By the amendment above, this claim term has been amended to read "cylindrical peripheral surface being free of any other portion of the implant except in said connection zone", which was the applicant's original intent in drafting the Preliminary Amendment. By this amendment, therefore, claim 9 has been amended to clearly describe that a portion of the periphery of the claimed implant (shown by double-headed arrows 20, 22 in Fig. 1A) is not "covered by" any other portion of the implant except in the connection zone. This claim term is shown in the drawings (*id.*) and used in the specification (*see*, p. 6, lines 5-7 and 13-14). Accordingly, it is respectfully submitted that the objection to the drawing and rejection under 35 U.S.C. § 112 (1st para.) should be withdrawn.

The Examiner's rejection under 35 U.S.C. 112 (2d para.), found at page 4 of the Final Rejection, is premised on the Examiner's contention that the diameter of the cylindrical peripheral surface is "not well characterized, since, from the claim language, an arbitrary line characterizes the diameter of said surface." The Examiner responded to applicants' prior arguments that the diameter is defined, by stating that the diameter of the cylindrical peripheral surface "is not adequately defined in the claims and/or Figures." Applicants respectfully disagree. Figure 1A clearly shows the boundary of the cylindrical peripheral surface as D1 (*see*, page 6, lines 27-29), and defines that periphery, not arbitrarily, but as the boundary of the optical portion of the inventive implant (*id.*). This is the same surface which is free of any other portion of the implant in free zones 20, 22 of Fig. 1A, and covered by haptic elements 12 and 14 in the connection zones of the implant. The cylindrical peripheral surface is clearly defined structurally, therefore, in the free zones by the edge of the implant and optically in the connection zones. It is not arbitrary.

In his Response to Applicants' Arguments in the Final Rejection (p. 4), the Examiner took the position that there was no demarcation between the anterior optical surface 24, the posterior optical surface 26, the radial extensions 30, 32 and the cylindrical peripheral surface. Applicants respectfully disagree. The edge of the cylindrical periphery of the claimed implant (as shown in Fig. 1A) is clearly defined, with a single diameter D1. Therefore, defining the same cylindrical surface as being connected to the haptic elements in the connection zones defines explicitly how far the cylindrical surface extends: to the extent of diameter D1. It is not unclear, vague or ambiguous. Rather, use of the term "cylindrical" expressly defines, structurally, how far that diameter extends even in those portions where the peripheral surface is connected to the haptic elements.

Thus, it is respectfully requested that the rejection under 35 U.S.C. § 112 (2d para.) be withdrawn.

Turning to the Examiner's rejection over the Weiser patent, in applicants' remarks in the Preliminary Amendment, it was noted that one distinction between the claimed invention and the device disclosed by Weiser was that the claimed invention is a "unitary" implant, meaning that it was made of a single piece of material. The Examiner took the position that the term "unitary" does not mean "made of a single piece", as argued by applicants, but could mean more than one piece fit together to make a "unitary" whole. During the referenced interview, it was discussed that the term "unitary" be changed to "single piece", the latter term being found in the specification (*see*, page 8, lines 27-28). This change has now been made, as shown in amended claim 9. Thus, it is respectfully submitted that the Examiner should now more fully consider the arguments previously presented in the Preliminary Amendment. Specifically, the

fact that the claimed implant is made of a single piece distinguishes it from that disclosed by Weiser.

Additionally, as noted previously in the Preliminary Amendment, a portion of lens 90 of Weiser extends beyond ring 94 (which the Examiner compares to the claimed cylindrical peripheral surface, *see*, page 5 of the Final Rejection) thereof, thereby covering ring 94. In the claimed invention, however, the cylindrical peripheral surface is free of any other portion of the implant, further distinguishing the claimed implant from that disclosed by Weiser.

For all these reasons, therefore, it is respectfully submitted that Weiser neither teaches nor suggests the invention as claimed.

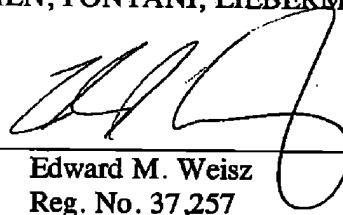
There being no further grounds for objection or rejection, early and favorable action is respectfully solicited.

It is believed that no fees or charges are required at this time in connection with the present application; however, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

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